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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,285	12/03/2003	Keith E. Slack	SLA01 P-100A	1284
28101	7590	10/10/2006	EXAMINER	
VAN DYKE, GARDNER, LINN AND BURKHART, LLP 2851 CHARLEVOIX DRIVE, S.E. P.O. BOX 888695 GRAND RAPIDS, MI 49588-8695			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/707,285	SLACK, KEITH E.	
	Examiner	Art Unit	
	Chi Q. Nguyen	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 22-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input checked="" type="checkbox"/> Other: <u>attachment</u> . |

DETAILED ACTION

This Office action is in response to the applicant's patent application filed on 12/3/2003.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121.

I. Claims 1-21, drawn to method of removing roof material, classified in class 52, subclass 749.12.

II. Claims 22-40, drawn to apparatus of a roof material removal apparatus, classified in class 83.

The inventions I and II are unrelated. The inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP & 806 .04, MPEP & 808.01).

In instant case, the apparatus claims could be use different mode of operation such as using explosive material to remove.

During a telephone conversation with Mr. Frederick S. Burkhart on 9/29/2006 a provisional election was made without traverse to prosecute the invention of group I (claims 1-21). Affirmation of this election must be made by applicant in replying to this Office action. Claims 22-40 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a nonelected invention.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the roofing material such as shingle must be shown or the feature(s) canceled from the claim(s). And also "a set of tines" is not clearly shown in the drawings. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

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prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: on paragraph 0020, the same numeral label 46 used to describe the different structural elements (actuator and clean slot).

Appropriate correction is required.

Claim Objections

Claim 1 is objected to because of the following informalities:

The preamble of claim 1 is objected to, as claim 1 recites "A method of removing roof material", while depending claims 6-11 recites method steps drawn to a method of treating construction waste material. The preamble should be amended to reflect the removing and treating of roof material. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,156,156 to Ruzich.

Claim 15:

Ruzich discloses a roof material removal apparatus (see abstract) comprising a saw 40, said saw adapted for use in cutting roof material into sections of roof material (see also col. 3, lines 15-16).

Claim 16:

Including a handle (see Fig. 1B) wherein an user is handled.

Claim 17:

Including an adjustment device (see abstract).

Claim 18:

Including a guard 80 for said saw (see Fig. 2) and a cleanout opening C (see attached Fig. 3) in said guard 80.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-21 and 1-3, 6-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,156,156 to Ruzich.

Claim 19:

Prior art Ruzich discloses the basic structures for the removal apparatus as set forth above but does not disclose the saw comprises a circular saw. Examiner takes Official Notice that the circular saw is well known and commercially available; thus it would have been obvious matter of functional equivalent to the chain saw as taught by Ruzich.

Claims 20-21:

Prior art Ruzich discloses the basic structures for the removal apparatus as set forth including carbide-tipped saw (see col. 1, line 12) but does not disclose the circular saw is diamond tipped and a blade coated with an anti-stick material. However, these features would have been matters of obvious design choice to one of ordinary skill in the art at the time the invention was made to use a diamond tipped saw for cutting harder material and to use a blade with anti-stick material to prevent the blade from binding. Furthermore, applicant has not disclosed the criticality of these features.

Claims 1-3, and 6-14 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,156,156 to Ruzich in view of U.S. Pat. No. 5,201,472 to Brock.

Method claims 1, 2, 3, 6-9 and 10-14:

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Ruzich discloses a roof material removal apparatus (see abstract) comprising a roof 22, a saw 40, said saw adapted for use in cutting roof material into sections of roof material (see also col. 3, lines 15-16), a handle (see Fig. 1B) wherein an user is handled, an adjustment device (see abstract), a guard 80 for said saw (see Fig. 2) and a cleanout opening C (see attached Fig. 3) in said guard 80. However Ruzich does not specifically disclose method steps of removing the roof sections, shredding the roof sections, and removing nails from the shredded sections. However, these steps are not steps of removing roof material as set forth in the preamble of claim 1 but comprise steps of treating construction waste material. Still, shredding and removal of nails from construction waste materials are well known as taught by Brock (see col. 3, lines 17-21 and col. 4, lines 50-51). At the time of the invention, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Ruzich with shredding and removal nail apparatus for removing the roofing waste material from the work site for safety reasons. Furthermore, The steps of clean up by shredding and using a blower to discharge leftover material from the roof are considered obvious method steps for the methods of treating construction waste materials and cleaning up the work site.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,156,156 to Ruzich in view of U.S. Pat. No. 5,201,472 to Brock and further in view of U.S. Pat. No. 5,451,003 to Omann.

Claims 4 and 5:

Ruzich in view of Brock disclose the basic structures for a roof material removal apparatus as set forth above but does not disclose a set of flexible tines for lifting the sections of roof material from the roof. Omann discloses a method for transporting shingle material along a conveyor with flexible tines 34 (see Fig. 6). In view of Omann, it would have been obvious to one of ordinary skill in the art at the time the invention was to provide a means to remove the roofing waste using a conveyor with tines.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached at (571) 272-6848.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

CQN
9/29/2006


NAOKO SLACK
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